

5/21/01
13IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JAMES E. BETHEA,

Petitioner

v.

DONALD ROMINE, Warden,

Respondent

CIVIL ACTION NO. 1:CV-01-0079

(Judge Kane)

(Magistrate Judge Blewitt)

FILED
SCRANTON

MAY 21 2001

REPORT AND RECOMMENDATION

PER JRS
DEPUTY CLERK

The Petitioner filed this action on January 16, 2001, pursuant to 28 U.S.C. § 2241. (Doc. 1). The Petitioner is challenging the fact that he has been in custody for having a "dirty urine" for over eight months and has not yet received a rescission hearing. A response was filed on March 28, 2001. (Doc. 8). The respondent represented that the Petitioner had had a rescission hearing on March 8, 2001, and that his parole effective date was June 8, 2001. However upon further review of the exhibits attached to the response, on May 2, 2001, the Court issued an order that directed the Respondent to show cause within ten (10) days of the date of the Order why the Petitioner should not be immediately released based upon the language contained in the Notice of Action that indicated that the Petitioner had already served beyond the top of the rescission guideline range at the time of his rescission hearing before the United States Parole Commission. (Doc. 10). On May 16, 2001, the Respondent filed a response to the show cause order. (Doc. 11). Therein, it was stated that "[t]he BOP recently recomputed Bethea's sentence (forfeited good time was restored), and he is now scheduled for 'mandatory parole' (the District of Columbia term for

what is referred to as mandatory release under the federal law). Bethea will be released on May 18, 2001, to remain under parole supervision until August 18, 2006." (Doc. 11, p. 2). On this date, the Court contacted the Records Department at the United States Penitentiary at Lewisburg and confirmed that the Petitioner was in fact released from the United States Penitentiary at Lewisburg on May 18, 2001.

Based on the foregoing, it is respectfully recommended that the Petition for Writ of Habeas Corpus be dismissed as moot.


THOMAS M. BLEWITT
United States Magistrate Judge

Dated: May 21, 2001

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JAMES E. BETHEA,	:	CIVIL ACTION NO. 1:CV-01-0079
	:	
	:	
Petitioner,	:	
	:	(Judge Kane)
v.	:	
	:	(Magistrate Judge Blewitt)
	:	
DONALD ROMINE,	:	
	:	
Respondent	:	

NOTICE

NOTICE IS HEREBY GIVEN that the undersigned has entered the foregoing

Report and Recommendation dated May 21, 2001.

Any party may obtain a review of the Report and Recommendation pursuant to Rule 72.3, which provides:

Any party may object to a magistrate judge's proposed findings, recommendations or report addressing a motion or matter described in 28 U.S.C. § 636 (b)(1)(B) or making a recommendation for the disposition of a prisoner case or a habeas corpus petition within ten (10) days after being served with a copy thereof. Such party shall file with the clerk of court, and serve on the magistrate judge and all parties, written objections which shall specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for such objections. The briefing requirements set forth in Local Rule 72.2 shall apply. A judge shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge, however, need conduct a new hearing only in his or her discretion or where required by law, and may consider the record developed before the

magistrate judge, making his or her own determination on the basis of that record. The judge may also receive further evidence, recall witnesses or recommit the matter to the magistrate judge with instructions.



THOMAS M. BLEWITT
United States Magistrate Judge

Dated: May 1, 2001

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

* * MAILING CERTIFICATE OF CLERK * *

May 21, 2001

Re: 1:01-cv-00079 Bethea v. Romine

True and correct copies of the attached were mailed by the clerk
to the following:

James E. Bethea
US Pentitentiary, at Lewisburg
04286-000
POB 1000
Lewisburg, PA 17837

Kate L. Mershimer, Esq.
U.S. Attorneys Office
Room 217, Federal Bldg.
228 Walnut St.
Harrisburg, Pa 17108

cc:

Judge	()	()	Pro Se Law Clerk
Magistrate Judge	()	()	INS
U.S. Marshal	()	()	Jury Clerk
Probation	()		
U.S. Attorney	()		
Atty. for Deft.	()		
Defendant	()		
Warden	()		
Bureau of Prisons	()		
Ct Reporter	()		
Ctroom Deputy	()		
Orig-Security	()		
Federal Public Defender	()		
Summons Issued	()	with N/C attached to complt. and served by:	
		U.S. Marshal ()	Pltf's Attorney ()
Standard Order 93-5	()		
Order to Show Cause	()	with Petition attached & mailed certified mail	
		to: US Atty Gen ()	PA Atty Gen ()
		DA of County ()	Respondents ()
Bankruptcy Court	()		
Other _____	()		

MARY E. D'ANDREA, Clerk

JS 5/21/01